

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -APRIL 5, 2011- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:18 p.m. Vice Mayor Bonta led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Bonta, deHaan, Johnson, Tam and Mayor Gilmore – 5.

Absent: None.

AGENDA CHANGES

(11-146) Mayor Gilmore announced that the Housing Authority Board of Commissioners (HABOC) agenda would be addressed after Oral Communications.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(11-147) Proclamation Declaring the Month of March “Women’s History Month”

Mayor Gilmore read and presented the proclamation to Anne Spanier, League of Women Voters.

(11-148) Proclamation Congratulating College of Alameda on its 40 Years of Service to the Community.

Mayor Gilmore read and presented the proclamation to Dr. Jannette Jackson, College of Alameda President.

Dr. Jackson introduced Dr. Wise E. Allen Peralta Community College District Chancellor; former Mayor Bill Withrow and Abel Guillen from the Peralta Board of Trustees; and College staff members and students; provided a handout.

Mr. Withrow commented on constraints and difficulties facing the College of Alameda.

(11-149) Proclamation Declaring April as Autism Awareness Month.

Mayor Gilmore read and presented the proclamation to Jodi Moore, Commission on Disability Issues (CID).

Ms. Moore recognized the members of the CDI and audience members present with loved ones affected by Autism, announced upcoming Autism awareness events and provided a handout.

(11-150) Proclamation Declaring April 16, 2011, as Earth Day.

Mayor Gilmore read and presented the proclamation to Ruth Abbe, Community Action for a Sustainable Alameda; and Sharyl Nelson-Embry, East Bay Regional Park District.

Ms. Nelson-Embry and Ms. Abbe announced upcoming activities.

(11-151) Proclamation Declaring May 2011 as Asian Pacific Heritage Month.

Mayor Gilmore read and presented the proclamation to Judy Gong, Benny Chin, and Austin Tam.

Ms. Gong invited everyone to attend the Spring Festival on May 1st and submitted a flyer.

CITY MANAGER COMMUNICATIONS

(11-152) Provide Direction on Improving the City of Alameda's Secondhand Smoke and Tobacco Control Policies

Speakers: Jonathan Wong, Alameda High School Student; and Elizabeth Wong, Alameda High School Student.

ORAL COMMUNICATIONS, NON-AGENDA

(11-153) Hunter Stern, International Brotherhood of Electric Workers Local 1245; Dave Connolly, Alameda resident and Sailors' Union of the Pacific (SUP) Union; Jeff DelBono, International Association of Fire Fighters Local 689; Mike Henneberry, Alameda resident and United Food and Commercial Workers Local 5; and Cindy Zecher, Alameda resident and California School Employees Association, discussed unions not being responsible for budget issues.

(11-154) Jenny Lee, Oakland, discussed a complaint she submitted about the Library and submitted a handout.

(11-155) Roderick Coleman, Alameda, discussed problems with staff at Operation Dignity.

In response to Councilmember Tam, the Housing Authority Executive Director stated that he would be meeting with Mr. Coleman.

(11-156) Randolph Belle, RBA Creative, discussed the opening of an art studio and gallery; and submitted a handout.

(11-157) Nancy Hird, Alameda; Corrine Lambden, Alameda; Adam Gillitt, Alameda; and Jim Oddie, Alameda, discussed budget issues facing Alameda.

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Mayor Gilmore called a recess to hold the HABOC meeting at 8:36 p.m. and reconvened the meeting at 9:00 p.m.

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CONSENT CALENDAR

Councilmember Tam moved approval of the Consent Calendar.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*11-158) Minutes of the Regular City Council Meeting Held on March 15, 2011; and the Special City Council Meeting Held on March 26, 2011. Approved.

(*11-159) Ratified bills in the amount of \$4,194,923.45.

(*11-160) Recommendation to Authorize the Public Works Director to Enter into a Letter of Agreement between the City of Alameda and the West Alameda Business Association for the Administration of a Monthly Parking Permit Program in City Owned Lot W. Accepted.

(*11-161) Recommendation to Authorize the Public Works Director to Enter into a Letter of Agreement between the City of Alameda and the Park Street Business Association for the Administration of a Monthly Parking Permit Administration in City Owned Lots A and C. Accepted.

(*11-162) Recommendation to Accept the Work of Mountain Cascade to Pipeburst Existing 14 Inch VCP Storm Drain Pipe and Replace with 16 Inch HDPE Pipe on Eighth Street, between Pacific Avenue and Lincoln Avenue. Accepted.

(*11-163) Recommendation to Adopt Plans and Specifications and Authorize a Call for Bids for Repair and Resurfacing of Certain Streets, Phase 30, No. P.W. 10-10-26. Accepted.

(*11-164) Recommendation to Receive an Update on the City's Green Initiatives. Accepted.

(*11-165) Recommendation to Authorize the Purchase of Two Marked Ford Crown Victoria Police Vehicles through the Los Angeles County Vehicle Bid Contract at a Cost Not to Exceed \$50,000.00. Accepted.

(*11-166) Resolution No. 14559, "Approving Amendment to the Memorandum of Understanding Between the City of Alameda and the Alameda Police Officers Association Non-Sworn Unit for the Period Commencing December 20, 2009 and Ending December 18, 2010, and Extended through March 26, 2011." Adopted;

(*11-166A) Resolution No. 14560, "Approving Amendment to the Memorandum of Understanding Between the International Brotherhood of Electrical Workers Local 1245 for the Period Commencing January 1, 2009, and Ending December 18, 2010, and Extended through March 26, 2011." Adopted;

(*11-166B) Resolution No. 14561, "Approving Amendment to the Memorandum of Understanding Between the Management and Confidential Employees Association for the Period Commencing January 1, 2005 and Ending December 20, 2008, Extended through December 12, 2009, Extended Again through December 18, 2010 and Extended Again through March 26, 2011." Adopted.

(*11-167) Ordinance No. 3028, "Amending the Alameda Municipal Code to Amend Chapter XIII (Building and Housing) by Repealing Article I (Uniform Codes Relating to Building, Housing and Technical Codes) in its Entirety and Adding a New Article I (Uniform Codes Relating to Building, Housing and Technical Codes) to Adopt the 2010 California Building Code, the 2010 California Residential Code, the 2010 California Historical Building Code, the 2010 California Electrical Code, the 2010 California Plumbing Code, the 2010 California Mechanical Code, the 2010 California Energy Code, the 2010 California Green Building Standards Code, the 1997 Uniform Housing Code, and the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, and Amend Chapter XV (Fire Prevention) by Repealing Section 15-1 in its Entirety and by Adding a New Section 15-1 to Adopt the 2010 California Fire Code. Finally passed.

(*11-168) Ordinance No. 3029, "Amending the Alameda Municipal Code by Repealing Article II (Boards and Commissions) of Chapter II (Administration) in Its Entirety and by Repealing Subsection 30-65.7 (Public Art Commission) of Chapter XXX (Development Regulations) in Its Entirety and Adding a New Article II (Boards and Commissions). Finally passed.

REGULAR AGENDA ITEMS

(11-169) Public Hearing to Consider Introduction of Ordinance Amending Section 30-7 of the Alameda Municipal Code Related to the Off-Street Parking and Loading Space Regulations. Amended and introduced.

The Planning Services Manager gave a brief presentation.

Mayor Gilmore inquired what "unbundling parking costs from leases" means.

The Planning Services Manager responded a person would have the option of purchasing a condominium without purchasing the associated parking spaces.

Mayor Gilmore inquired whether the Planning Services Manager means existing parking spaces.

The Planning Services Manager responded the issue is on the menu for future projects.

Mayor Gilmore inquired what would be the concept for reassigning spaces.

The Planning Services Manager responded reassigning spaces would work on a project-by-project basis and would have to be managed by the landlord or property owner; stated a person would not have to buy parking if parking is not needed.

Councilmember deHaan stated the property would be encumbered forever; leasing would be a different story.

The Planning Services Manager stated a person could request a reduction in the parking requirement; unbundling is a concept many cities are considering.

Councilmember deHaan stated approximately eighteen months ago, an effort was made to establish parking requirements by retail type.

The Planning Services Manager stated retail has been broken down into one or two categories; a restaurant is separate from non-restaurant retail uses; an art gallery would require a huge amount of parking.

Councilmember Tam stated Alameda Hospital ran into a similar issue and implemented tandem and free, valet parking because of residential spillovers.

Vice Mayor Bonta inquired whether feedback has been received from the business associations.

The Planning Services Manager responded the Park Street Business Association (PSBA) and West Alameda Business Association (WABA) are supportive and involved; private parking lots in commercial areas are underutilized, while on-street parking spaces are often full.

Vice Mayor Bonta inquired whether more can be done on the maximization and optimization of existing parking spaces.

The Planning Services Manager responded on-street and off-street pricing require constant monitoring; stated everyone would benefit from sharing private lots.

Mayor Gilmore requested clarification on parking in driveways.

The Planning Services Manager stated the provision prohibiting parking in driveways has been eliminated; a different section of the Municipal Code addresses where a person can and cannot leave a car.

Mayor Gilmore stated that she is happy that parking in driveways is permissible.

Councilmember Tam stated increasing parking fees to \$1 per hour for Lot C and keeping fees low for the parking garage encourages short-term parking in business areas; inquired whether the fees have been effective in terms of competition for short-term parking and on-street parking, to which the Public Works Director responded people still prefer street parking.

Councilmember Johnson stated alleyways should be available for businesses and restaurants; PSBA and WABA parking should be reviewed; sometimes, the City waits too long and opportunities go away; currently, Webster Street does not have a parking problem; inquired whether parking across a sidewalk is not allowed, to which the Planning Services Manager responded in the affirmative.

Councilmember Johnson stated Alameda High School has an ongoing request for designated spots for school use.

The Public Works Director stated the School District has a draft letter of agreement for twenty spots for teachers.

Councilmember Johnson stated student monthly passes should be considered for students.

The Public Works Director stated monthly parking rates have been reduced significantly to encourage parking at the parking structure; the rates are 50% lower than for parking at a meter.

Councilmember Johnson stated parking structure rates should be more than 50% lower.

Mayor Gilmore stated most of the morning traffic is generated by people going back and forth to school; traffic jams do not occur in the summer months; students should not be encouraged to drive.

Councilmember Johnson stated students drive; the difficulty is that students park in neighborhoods all day; the problem cannot be solved for all neighborhoods; students would more likely park in monthly pass spaces instead of [School District] staff.

Mayor Gilmore suggested tabling the issue to the next item on the agenda.

In response to Councilmember deHaan's inquiry regarding businesses offering additional spaces to other merchants or personnel, the Planning Services Manager stated the issue would be studied on a case-by-case basis.

Councilmember deHaan stated Council has been very gun shy regarding the matter in the past.

The Public Works Director stated City approval would be needed; Napa offers additional spaces; staff is encouraging new businesses to partner with existing parking lots to

meet parking needs.

Councilmember deHaan stated theater-parking requirements were overstated and are not needed.

The Deputy City Manager – Development Services stated parking is very well utilized during peak hours and on weekends.

Speaker: Robb Ratto, PSBA.

In response to Mr. Ratto's comments, the Public Works Director stated a ten-year term [for the shared parking agreement] has been suggested because of the concern of whether parking lots would be available for other customers long term; noted five years would be too short; stated seven years might be appropriate.

Mayor Gilmore stated the number of years could always be adjusted later.

Councilmember Johnson moved introduction of the ordinance with a revision to change the shared parking agreement to seven years.

Councilmember deHaan seconded the motion.

Under discussion, Vice Mayor Bonta requested clarification on the timing of the ordinance.

The Planning Services Manager stated the ordinance would go into effect thirty days after the second reading [final passage].

Vice Mayor Bonta inquired whether an existing business could request a change under the new ordinance, to which the Planning Services Manager responded absolutely.

Councilmember Johnson stated a streamline process should be developed.

The Planning Services Manager stated the zoning administrative process could be used.

Mayor Gilmore stated the process would only be used for parking.

On the call for the question, the motion carried by unanimous voice vote – 5.

(11-170) Introduction of Ordinance Amending the Alameda Municipal Code by Repealing Section 12-17 (Preferential Parking Zones) of Article III (Permit Parking) of Chapter XII (Designated Parking) in Its Entirety, and by Adding a New Section 12-17 (Preferential Parking Zones) to Modify the Procedures Relating to the Designation of Preferential Parking Zones. Amended and introduced.

The Public Works Director gave a brief presentation.

Councilmember Johnson inquired what a permit would cost, to which the Public Works Director responded \$40 per year.

Councilmember Johnson inquired whether neighborhood meetings have been held.

The Public Works Director responded in the negative; stated a public workshop would be held before establishing a parking permit zone.

Mayor Gilmore requested clarification of the conceptual process.

The Public Works Director stated a Parking Permit Program (PPP) zone would need to be located in close proximity to a C-C zoning district or major parking generator; a minimum of 600 housing units would be needed; the zone would need to be comprised of a minimum of 85% residential properties and have at least an 85% parking demand for any three-hour period between 8:00 a.m. and 6:00 p.m.; residents would need to submit a petition signed by a minimum of 55% of property owners; only one signature per dwelling unit or business would be counted; the City would conduct a parking study; a public workshop would be held; recommendations would be provided; staff would then come back to Council with a recommendation to establish a PPP zone.

Mayor Gilmore inquired whether the process would be resident initiated, to which the Public Works Director responded in the affirmative.

Mayor Gilmore inquired whether permits would be for Monday through Friday, to which the Public Works Director responded in the affirmative.

Mayor Gilmore inquired whether a resident would be charged \$80 per year for two cars, to which the Public Works Director responded in the affirmative.

In response to Councilmember Tam's inquiry, the Public Works Director stated [eligible] areas would be limited; communities would need to buy into the program; staff receives complaints from Jackson Park and Alameda High School area residents on a regular basis.

Councilmember Tam inquired whether only residents can initiate a PPP request, not institutions.

The Public Works Director responded staff has not addressed who would be able to initiate the request, only how many people could sign the petition.

Councilmember deHaan stated the 600 housing unit threshold is huge; that he is not sure whether said threshold could be met; getting 55% of the residents to sign a petition would be tough.

The Public Works Director stated the threshold is standard; people would park the next block over if the threshold were for one block.

Vice Mayor Bonta inquired whether other cities require a minimum of 600 housing units and a 55% threshold.

The Public Works Director responded thresholds vary; one city has a 51% threshold.

The Supervising Civil Engineer stated Alameda County and Oakland have a 33% threshold; other cities range from one-third to one-half.

Vice Mayor Bonta inquired whether Alameda would be on the high end of the threshold but a high threshold would be needed for fiscal neutrality of the General Fund.

The Public Works Director responded looking to the General Fund would be necessary without the recommended threshold.

Councilmember deHaan inquired whether the start up process would need to be [periodically] reviewed because of turnover.

The Public Works Director responded permit fees would be adjusted annually to ensure costs are covered; stated the proposed ordinance has a provision that would allow Council to dissolve a PPP zone if the zone is not self-supporting.

Councilmember Johnson stated the PPP zone would not be a bad thing to have in place; stated the Jackson Park, Hospital, and High School areas would not be able to meet the 600 housing unit threshold.

The Public Works Director stated the threshold would be six contiguous blocks or 600 housing units.

Mayor Gilmore stated a lot of Bay Area cities have a 33% threshold but are subsidized by the General Fund; the City's General Fund would not subsidize the PPP.

Speaker: Robb Ratto, PSBA.

In response to Councilmember deHaan's comment, the Public Works Director stated no one within the commercial district would be able to be part of the PPP; businesses within a residential area would be allowed to get a permit if the business does not have off-street parking; commercial fees within the new zone would be \$40 per year; other cities charge a higher rate for businesses.

The Acting City Manager stated visitor permits would not be provided for businesses within the area.

Councilmember deHaan inquired how many permits a residence could have.

The Public Works Director responded the number of permits is not established in the proposed ordinance; but would be addressed in the resolution establishing the zone; stated some cities allow up to three permits.

Councilmember Johnson stated two-hour parking is the most difficult to enforce; tires need to be marked and rechecked to do an effective job.

The Public Works Director stated the Police Department is aware of the proposed ordinance; the Police Department would need to hire new staff; the cost would be covered by the permit costs.

The Acting City Manager stated some days people would get a free ride; the Public Works Department has worked with the Police Department to establish something that is doable.

Councilmember Johnson stated enforcement in the downtown area should not be reduced; inquired how start up costs would be paid if permits are never issued, to which the Public Works Director responded in-lieu parking fees would be used.

Mayor Gilmore inquired how the PPP would work if Jackson Park residents could not get the 55% minimum but could get 35% to 40% and be willing to pay \$55.

The Public Works Director responded residents should cover upfront costs in case the district is not established.

Mayor Johnson inquired what the upfront costs would be, to which the Public Works Director responded \$4,500 [excluding purchasing a vehicle].

Councilmember Tam inquired whether the Jackson Park area would have the required 600 dwelling units, to which the Public Works Director responded in the affirmative.

Councilmember Johnson suggested installing parking meter boxes at the Jackson Park area and selling parking permits to residents; stated revenue would be generated every day.

The Public Works Director stated a residential permit-parking ordinance would still be needed; that he is not sure whether the spillover problem would be eliminated.

Councilmember Tam stated 40% of 600 dwelling units divided by \$4,500 would be \$18.75 per resident.

Mayor Gilmore stated [an \$18.75] credit could be given for the first year permit fee; noted that parking meter boxes are expensive; stated residents would not be motivated [to initiate a petition] if parking is not considered a problem.

Councilmember Tam stated having an ordinance would provide options to address complaints.

Mayor Gilmore clarified that Council direction is to reduce the threshold to 40%, which equates to approximately \$19 per dwelling unit up front that would be credited to the first year permit [if a PPP zone were established]; any unspent money would be given back if the PPP zone failed.

Vice Mayor Bonta inquired what the annual permit fee would be, to which the Public Works Director responded \$40; stated larger zones might have a smaller fee and commercial fees could be higher.

Vice Mayor Bonta inquired whether the fee would still work with a lower threshold, to which the Public Works Director responded the assumption would be that 60% of residents would participate.

In response to Councilmember Tams inquiry, the Acting City Manager stated everything outlined in Exhibit 1 is start up costs except for the \$26,500 vehicle purchase; the annualized cost would be \$45,150.

Councilmember Johnson moved introduction of the ordinance with the revision to add a start up cost [and revise the threshold to 40%].

Councilmember deHaan seconded the motion, which carried by unanimous voice vote – 5.

CITY MANAGER COMMUNICATIONS

(11-171) Provide Direction on Improving the City of Alameda's Secondhand Smoke and Tobacco Control Policies

* * *

Councilmember Tam left the dias at 10:33 p.m. and returned at 10:34 p.m.

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The Senior Management Analyst gave a Power Point presentation.

Mayor Gilmore inquired whether tobacco retailers are prohibited within a certain number of feet of schools, to which the Senior Management Analyst responded in the affirmative.

The Senior Management Analyst continued the presentation.

Speakers: Adrian Blakey, Alameda; Judith Fruge, Alameda; Nancy Issel-Mayes, Alameda; Michael Robles-Wong, Alameda; Michael John Torrey, Alameda; Janice Louie, Alameda County Health Department (submitted handout); Dr. Thomas Charron,

Alameda; Nancy Shemick, Alameda County Public Health Commission and Alameda resident; Serena Chen, Alameda Lung Association (submitted handout); Carol Menz, Alameda Unified School District Anti-Tobacco Educator; Rosalyn Moya, Alameda; Michael Kent, Alameda; Michael Chae, American Cancer Society and Alameda resident; and Zalman Sher, Alameda.

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Councilmember deHaan left the dais and returned at 11:18 p.m.

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Vice Mayor Bonta stated all loopholes should be closed; that the City should be very aggressive on the issue; all four policy areas should be addressed; he does not see an outright prohibition for condominiums.

The Senior Management Analyst stated condominiums could be 100% smoking prohibitive.

Councilmember Tam stated fourteen cities within the County have already addressed the issue; suggested using Union City's ordinance as a model.

The Senior Management Analyst stated Union City staff was directed to do whatever necessary to get an A.

Councilmember Tam stated that her direction is the same.

Vice Mayor Bonta stated Council should give direction to get an A+; Union City is not doing anything regarding sidewalks.

Mayor Gilmore stated dining areas would be one of the seven areas targeted for protection; inquired whether smoking on an outdoor patio would be prohibited or would be extended to the front sidewalk, to which the Senior Management Analyst responded whatever Council wants.

In response to Mayor Gilmore's inquiry, the Senior Management Analyst stated secondhand smoke is not considered a nuisance at the State level; declaring secondhand smoke at the local level would lower the threshold for proof of injury.

Mayor Gilmore stated only two cities have declared secondhand smoke a nuisance.

The Senior Management Analyst stated the issue is an emerging issue for cities; Richmond has stated that it would be easier to enforce a misdemeanor than an infraction.

Councilmember deHaan inquired whether cities are shying away because of legal issues.

The Senior Management Analyst responded the issue has not been reviewed as closely as needed to make a legal determination.

Councilmember deHaan inquired where a person would go to smoke, to which Vice Mayor Bonta responded a single family home.

The Senior Management Analyst stated a person could also smoke in a car.

Mayor Gilmore stated one place to start would be to address non-smoking in common areas, disclosure, and the nuisance versus misdemeanor issue; staff could come back for a deeper discussion on non-smoking units.

The Senior Management Analyst stated the Technical Assistance and Legal Center (TALC) drafts ordinances for cities to follow; TALC's secondhand ordinance covers smoke-free workplace areas and outdoor air provisions; housing provisions could be included.

Councilmember Johnson stated the City should be as aggressive as possible; the matter is a public health issue; that she supports as many prohibitions as possible, especially in housing; suggested that staff come back to address whether there are any weaknesses or areas of interest that would keep smoking out of multi-family units.

Councilmember deHaan concurred with Councilmember Johnson.

Councilmember Johnson inquired whether smoking at all outdoor recreational areas would be prohibited.

The Senior Management Analyst responded in the affirmative, except for the beach because the beach belongs to the East Bay Regional Park District.

In response to Councilmember deHaan's inquiry, the Senior Management Analyst stated the percentage of smokers in Alameda County is 10%.

Councilmember deHaan stated that he feels for smokers; he does not know how smokers will get their fix.

Councilmember Johnson stated that she likes the idea of licensing.

Councilmember deHaan stated the City has received complaints regarding advertising, especially adjacent to schools.

Vice Mayor Bonta stated enforcement of nuisance issues could be outsourced to a private party.

Councilmember Tam requested that staff come back with an ordinance that TALC has reviewed; stated staff should start with Union City's ordinance and include the City's

Housing Authority policy, a provision for nuisances, prohibitions on sidewalk smoking and licensing; information on the impact of Union City's enforcement should be provided.

Vice Mayor Bonta stated staff should come back with information on legal exposure in areas ahead of the curve.

Councilmember deHaan stated staff should look outside of Alameda County also.

The Acting City Manager stated staff has looked at areas outside Alameda County.

Mayor Gilmore stated there would be a lot of discussion around banning smoking in multi-family units and condominiums.

Vice Mayor Bonta stated a number of cities have banned smoking in condominiums.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

None.

ADJOURNMENT

There being no further business, Mayor Gilmore adjourned the meeting at 11:50 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.